

REMARKS

Claim Objections

At the interview on April 18, 2008 the Examiner raised several Section 112 issues with respect to claims 35, and 47 - 57 submitted in the Response to the Office Action dated January 7, 2008. Applicant has also included a single new claim 80 herein this claim is directed to a single phase pellet of a frozen dessert product formed from a premix comprising from 3.6% to 7.2% sucrose. This pellet results from said premix being introduced into a cryogen. The pellet remains a single phase solid product at a temperature of from between about -15 and about -25 degrees Celsius without fusing to another pellet.

The specification at page 16, line 11 defines a currently available premix as having the following composition:

“In order to manufacture a frozen dessert type product a premix is required. Currently available premixes typically have the following composition:

At least 10% milk fat with some premium ice creams going as high as 16%, or even 18% in super-premium ice creams. In addition to the milk fat there is also about 9% to 12% non-fat milk solids as well as about 12% to 18% sweeteners.” (emphasis supplied)

Support for the limitation that the pellet is formed from a premix having 3.6% to 7.2% sucrose is found at page 18 lines 19-22 where the specification states that the amount of sweetener in the present invention is as follows:

“The main object of the invention is to elevate the melting temperature of the frozen pellet. This melting temperature is higher than the comparable melting temperature of a bulk frozen dessert product. The elevation of the melting temperature is achieved by removing a significant percentage of the sugar in the normal premix while still retaining the preferred taste of the product. Alternatively all added sugars can be removed completely and replaced with artificial sweeteners if desired for a composition that is sugarless. Accordingly, that significant percentage removed can range

from about 30% to about 70% of the sugar normally in a premix. In a preferred embodiment the sugar removed ranges from about 40% to about 60%. In a more preferred range the removed sugar can range from 45 % to about 55%.

In the most preferred embodiment there is removal of about 50% of the sugar in a standard premix.”

A composition that has 30% of the sugar in a currently available premix having 12% sugar would have 3.6% sugar. A composition having 60% of the sugar in a currently available premix having 12% sugar would have 7.2% sugar.

Support for the limitation that the pellet is a solid at from -15 and about -25 degrees Celsius is found at page 10, line 17 of the specification.

The prior art does not teach or suggest a single phase product having a percentage of sucrose in the claimed range that remains a solid at the claimed temperature range. The prior art Jones patent does not remain a solid at the claimed temperature. In addition, the conventional premixes do not have a sugar content in the claimed range.

#### CONCLUSION

For the foregoing reasons, Applicant requests reconsideration of the above identified application.

Respectfully submitted,



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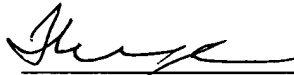
Application No. 10/787,253

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I hereby certify that the foregoing Response was mailed by express mail,  
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P.O. Box 1450 Alexandria, VA 22313-1450 on this 21<sup>st</sup> day of April, 2008.

  
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